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Suzanne Horvick



#3
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AUG 24 2001

**OFFICE OF PETITIONS
DEPUTY A/C PATENTS**

PATENT

Attorney Docket No.: DB000575-012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Keeth, et al.)	
)	Examiner: Not yet assigned
Serial No.:	09/885,217)	
)	Art Unit: Not yet assigned
Filed:	20 June 2001)	
Entitled:	256 MEG DYNAMIC RANDOM ACCESS MEMORY		

PETITION TO GRANT FILING DATE

Applicants petition the Commissioner to accord the above-identified application (“‘217 application”) a filing date of 20 June 2001. On 20 June 2001, the ‘217 application was filed with all necessary parts, including at least one claim.

In the alternative, Applicants request that the ‘217 application be accorded a filing date as of the date that this petition and second preliminary amendment were filed.

Finally, Applicants hereby petition the Commissioner to accept the proof, as outlined below, that page 29 of the specification was submitted with the ‘217 application and to refund the accompanying petition fee of \$130 submitted in accordance with 37 C.F.R. 1.117(h).

08/24/2001 GTEFFERA 00000016 09885217

01 FC:122

130.00 0P

I. APPLICATION FILING DATE

A. Introduction

Applicants petition the Commissioner to accord to the '217 application a filing date of 20 June 2001. It was on this date that the application was filed via Express Mail Post Office to Addressee with all necessary parts, including nineteen (19) claims.

B. Argument

The '217 application was filed on 20 June 2001 as is evidenced by the copy of the Express Mail label attached hereto as Exhibit A. This application was filed as a divisional of application serial number 09/620,606 ("606 application"). The '606 application was a divisional of application 08/916,692 ("692 application"). The '692 application was filed containing claims 1-80. The '606 application was filed with a preliminary amendment, which added claims 81-465, as can be seen in Exhibit B (a copy of the preliminary amendment that was filed with the '606 application.)

The '217 application was filed with a copy of the specification from the original application (the '692 application) and a preliminary amendment. The preliminary amendment filed in the '217 application cancelled claims 1-222, 238-246, and 251-465. Thus, the '217 application was filed with nineteen (19) claims. These were the remaining claims, numbers 223-237 and 247-250, from the preliminary amendment filed in the parent case (the '606 application).

A copy of the preliminary amendment from the '692 application was inadvertently omitted from the '217 application. Applicants rely on the text printed on the Utility Patent Application Transmittal (Exhibit C) stating, "For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered

a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference.” Applicants submitted a copy of the oath that was filed in the original application. This is evidence by the Box 5b that has been checked on the Utility Patent Application Transmittal (Exhibit C). An additional copy of this declaration is filed with this petition as Exhibit D. Thus, Applicants complied with this statement. The Preliminary Amendment filed with the ‘606 application should be considered as part of the ‘217 application, otherwise, the preliminary amendment filed in the ‘217 application does not make sense.

C. Conclusion

Applicants complied with the provision on the Utility Patent Application Transmittal that incorporated the entire disclosure of the prior application. The prior application contained 465 claims. Applicants filed the present application with a preliminary amendment canceling all but nineteen (19) of the claims. Therefore, Applicants filed an application on 20 June 2001 that complied by 35 U.S.C. 112, in that the application contained at least one claim. For the foregoing reasons, Applicants request that the Commissioner grant this application the filing date 20 June 2001, which corresponds to the filing date of the application as evidenced by the Express Mail label.

II. ALTERNATIVE FILING DATE

In the alternative, Applicants request that the Commissioner grant this application a filing date as of the mailing date of this petition. This petition contains a second preliminary amendment, which presents claims for examination. This second preliminary amendment places the application in compliance with 35 U.S.C. 112 as of the date of the second preliminary amendment’s filing.

III. PAGE 29 OF SPECIFICATION

Applicants contend that the above-identified application was filed with page 29. Applicants respectfully direct Commissioners attention to Exhibits C and E (the Utility Patent Transmittal Form and the return receipt postcard). Both Exhibits state that this application was filed with 232 pages of specification; page 29 was one of these 232 pages. Applicants additionally assert that each page of the specification was visually checked prior to mailing to insure that every page was there. Applicants respectfully contend that page 29 was included in the above-identified application. Applicants have included a copy of page 29 with this petition.

Applicants contend that this evidence is sufficient to prove that 232 pages of specification were submitted with the application and that page 29 was one of the 232 submitted pages.

IV. NO NEW OATH IS NECESSARY

Applicants hereby petition the Commissioner under 37 C.F.R. 1.63(d)(1) to withdraw the request for submission of an oath or declaration.

A. Introduction

Applicants submitted a copy of the declaration from the prior original application with the filing of the present divisional application in compliance with 37 C.F.R. 1.63(d)(1). No new oath is needed for the claims that are included in the preliminary amendment, which was filed with the '217 application. This preliminary amendment did not add any new claims. It merely cancelled claims from the parent application. Hence, this preliminary amendment is covered by the oath that was filed in the parent application, a copy of which was filed with this application.

Additionally, no new oath is needed for page 29. Page 29 was submitted with the other 367 drawings on 20 June 2001. A copy of the oath from the prior original application was submitted at that same time. This oath covered all 367 pages, including page 29. Therefore, the present application was filed on 20 June 2001 with an oath that covered the application and does not need a new oath or declaration.

Furthermore, page 29 was incorporated by reference, as it was part of the disclosure of the prior application. Applicants rely on the text printed on the Utility Patent Application Transmittal (Exhibit C) stating, "For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference." Applicants submitted a copy of the oath that was filed in the original application. This is evidence by the Box 5b that has been checked on the Utility Patent Application Transmittal (Exhibit C). An additional copy of this declaration is filed with this petition as Exhibit D. Thus, Applicants complied with this statement. Page 29, which was also filed with the '606 application, should be considered as part of the '217 application as filed on 20 June 2001.

V. CONCLUSION

Applicants petition the Commissioner to accord the above-identified application ("217 application") a filing date of 20 June 2001. On 20 June 2001, the '217 application was filed with all necessary parts, including at least one claim.

In the alternative, Applicants request that the '217 application be accorded a filing date as of the date that this petition was filed.

Additionally, Applicants hereby petition the Commissioner to accept the proof, as outlined above, that page 29 of the specification was submitted with the '217 application and to refund the accompanying petition fee of \$130 submitted in accordance with 37 C.F.R. 1.117(h).

Respectfully submitted



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Attorneys for Applicants

Dated: 22 August 2001



POST OFFICE TO ADDRESSEE

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PO ZIP Code	Day of Delivery	Flat Rate Envelope
15219	<input checked="" type="checkbox"/> Next <input type="checkbox"/> Second	<input type="checkbox"/>
Date in	<input checked="" type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	Postage
Mo. Day Year 12 15 1995	<input type="checkbox"/> Military	\$ 45.25
Time in	<input type="checkbox"/> 1st Day <input type="checkbox"/> 3rd Day	Return Receipt
<input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	Int'l Alpha Country Code	<input type="checkbox"/>
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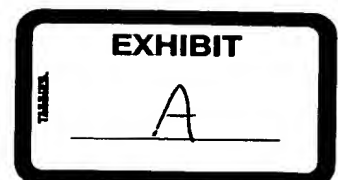
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FROM: (PLEASE PRINT) PHONE 412-394-7789	TO: (PLEASE PRINT) PHONE
Edward L. Pencoske, Esq. Thorp Reed & Armstrong, LLP One Oxford Centre 301 Grant Street, 14th Floor Pittsburgh, PA 15219-1425 DB573-12 (019721.074003)	Assistant Commissioner for Patents FOR PATENT APPLICATION Washington, D.C. 20231

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UTILITY
PATENT APPLICATION
TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.	DB000575-012
First Inventor	Keeth et al.
Title	256 MEG DYNAMIC RANDOM ACCESS MEMORY
Express Mail Label No.	E1859862909US

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1. ☒ Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)
2. ☐ Applicant claims small entity status.
See 37 CFR 1.27.
3. ☒ Specification [Total Pages **232**]
(preferred arrangement set forth below)
 - Descriptive title of the invention
 - Cross Reference to Related Applications
 - Statement Regarding Fed sponsored R & D
 - Reference to sequence listing, a table, or a computer program listing appendix
 - Background of the Invention
 - Brief Summary of the Invention
 - Brief Description of the Drawings (if filed)
 - Detailed Description
 - Claim(s)
 - Abstract of the Disclosure
4. ☒ Drawing(s) (35 U.S.C. 113) [Total Sheets **367**]
5. ☐ Oath or Declaration [Total Pages **5**]
 - a. ☐ Newly executed (original or copy)
 - b. ☒ Copy from a prior application (37 CFR 1.63 (d))
(for continuation/divisional with Box 18 completed)
 - i. ☒ **DELETION OF INVENTOR(S)**
Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. ☐ Application Data Sheet. See 37 CFR 1.76

ADDRESS TO:

Assistant Commissioner for Patents
Box Patent Application
Washington, DC 20231

7. ☐ CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
 - a. ☐ Computer Readable Form (CRF)
 - b. Specification Sequence Listing on:
 - i. ☐ CD-ROM or CD-R (2 copies); or
 - ii. ☐ paper
 - c. ☐ Statements verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

9. ☐ Assignment Papers (cover sheet & document(s))
10. ☐ 37 CFR 3.73(b) Statement (when there is an assignee) ☐ Power of Attorney
11. ☐ English Translation Document (if applicable)
12. ☒ Information Disclosure Statement (IDS)/PTO-1449 ☒ Copies of IDS Citations
13. ☒ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503) (Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s) (if foreign priority is claimed)
16. ☐ Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
17. ☒ Other: **Microfiche Appendix**

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☒ Divisional ☐ Continuation-in-part (CIP)of prior application No.: **09** / 620,606

Prior application information:

Examiner **M. Tran**Group Art Unit: **2818**

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

☐ Customer Number or Bar Code Labelor ☒ Correspondence address below

Name	Edward L. Pencoske				
Address	Thorp Reed & Armstrong, LLP				
	One Oxford Centre, 301 Grant Street, 14th Floor				
City	Pittsburgh	State	PA	Zip Code	15219-1425
Country	United States	Telephone	(412) 394-7789	Fax	(412) 394-2555

Name (Print/Type)	Edward L. Pencoske	Registration No. (Attorney/Agent)	29,688
Signature	<i>Edward L. Pencoske</i>	Date	20 Jun 01

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

EXHIBIT

C

DECLARATION

COPY

INVENTORSHIP IDENTIFICATION

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below, next to my name. I believe that I am the original, first and sole inventor (*if only one name is listed below*) or an original, first and joint inventor (*if plural names are listed below*) of the subject matter that is claimed, and for which a patent is sought on the invention entitled:

TITLE OF INVENTION

256 MEG DYNAMIC RANDOM ACCESS MEMORY

SPECIFICATION IDENTIFICATION

the specification of which:

- (a) ☐ is attached hereto.
- (b) ☒ was filed on August 22, 1997 as ☒ Serial No. 08/916,692
☐ and was amended on (*if applicable*).
- (c) ☐ was described and claimed in PCT International Application No. filed on
☐ and was amended on (*if applicable*).

ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims as amended by any amendment referred to above.

I acknowledge the duty to disclose information, which is material to patentability as defined in 37, Code of Federal Regulations, § 1.56.



PRIORITY CLAIMS UNDER 35 U.S.C. § 119(a)-(d)

(Prior Foreign/Pct Application(S) Filed Within 12 Months

(6 Months For Design) Prior To This Application)

I hereby claim foreign priority benefits under Title 35, United States Code, § 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate(s) or 365(a) of any PCT international application(s) which designated at least one country other than the United States of America, listed below and have also identified below any foreign application(s) for patent or inventor's certificate(s) or any PCT international application(s) having a filing date before that of the application(s) of which priority is claimed.

Application Number	Country or PCT	Date Of Filing (Day, Month, Year)	Priority not Claimed	Certified Copy Attached?
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			<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/>
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CLAIM FOR BENEFIT OF PRIOR U.S. PROVISIONAL APPLICATION(S) UNDER 35 U.S.C. § 119(e)

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below:

Provisional Application Number	Filing Date
60/050,929	May 30, 1997

CLAIM FOR BENEFIT OF EARLIER US/PCT APPLICATION(S) UNDER 35 U.S.C. 120(All Foreign Application(S), *If Any*, Filed More Than 12 Months

(6 Months For Design) Prior To This U.S. Application)

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) or 365(c) PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application(s) in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37, Code of Federal Regulations, § 1.56, which became available between the filing date of the prior application(s) and the national or PCT international filing date of this application.

U.S Parent Application No.	PCT Parent Application No.	Date Of Filing (Day, Month, Year)	Parent Patent No. (If applicable)

DECLARATION

I hereby declare that my presentation of this paper constitutes a certification under 37 C.F.R § 10.18, which provides, in part, that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and that further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful statements may jeopardize the validity of the application and any patent issuing therefrom.

SIGNATURE(S)

Inventor(s)

<u>Brent</u> (GIVEN NAME)	<u>(MIDDLE INITIAL OR NAME)</u>	<u>Keeth</u> FAMILY (OR LAST NAME)
Inventor's signature	<u>Brent Keeth</u>	
Date	<u>3/16/98</u>	Country of Citizenship <u>USA</u>
Residence	<u>Boise, ID 83704 13</u>	
Post Office Address	<u>3840 N. Sawgrass Place, Boise, ID 83704</u> <u>5077 N. FIFESHIRE PL., BOISE, ID 83713</u>	

<u>Layne</u> (GIVEN NAME)	<u>G.</u> (MIDDLE INITIAL OR NAME)	<u>Bunker</u> FAMILY (OR LAST NAME)
Inventor's signature	<u>Layne G. Bunker</u>	
Date	<u>3/20/98</u>	Country of Citizenship <u>USA</u>
Residence	<u>Boise, ID 83706</u>	
Post Office Address:	<u>825 W. Victory, Boise, ID 83706</u>	

<u>Scott</u> (GIVEN NAME)	<u>J.</u> (MIDDLE INITIAL OR NAME)	<u>Demer</u> FAMILY (OR LAST NAME)
Inventor's signature	<u>Scott J. Demer</u>	
Date	<u>4/1/98</u>	Country of Citizenship <u>USA</u>
Residence	<u>Meridian, ID 83642</u>	
Post Office Address:	<u>2793 N. Bobcat Way, Meridian, ID 83642</u>	

<u>Ronald</u> (GIVEN NAME)	<u>L.</u> (MIDDLE INITIAL OR NAME)	<u>Taylor</u> FAMILY (OR LAST NAME)
Inventor's signature	<u>Ronald L. Taylor</u>	
Date	<u>4/6/98</u>	Country of Citizenship <u>USA</u>
Residence	<u>Meridian, ID 83642</u>	

Post Office Address: 3137 Springwood Drive, Meridian, ID 83642

John S. Mullin
(GIVEN NAME) (MIDDLE INITIAL OR NAME) FAMILY (OR LAST NAME)

Inventor's signature *John S Mullin*
Date 4/8/98 Country of Citizenship USA
Residence Boise, ID 83705
Post Office Address: 3301 Rose Hill Street, Boise, ID 83705

Raymond J. Beffa
(GIVEN NAME) (MIDDLE INITIAL OR NAME) FAMILY (OR LAST NAME)

Inventor's signature *Raymond J Beffa*
Date 4/1/98 Country of Citizenship USA
Residence Boise, ID 83713
Post Office Address: 11966 Goldenrod Drive, Boise, ID 83713

Frank F. Ross
(GIVEN NAME) (MIDDLE INITIAL OR NAME) FAMILY (OR LAST NAME)

Inventor's signature *Frank F Ross*
Date 4/21/98 Country of Citizenship USA
Residence Boise, ID 83702
Post Office Address: 2004 N. 10th Street, Boise, ID 83702

Larry D. Kinsman
(GIVEN NAME) (MIDDLE INITIAL OR NAME) FAMILY (OR LAST NAME)

Inventor's signature *Larry D. Kinsman*
Date 4/15/98 Country of Citizenship USA
Residence Boise, ID 83706
Post Office Address: HC 33, Box 2461, Boise, ID 83706

- ☐ Signature by administrator(trix), or legal representative for deceased or incapacitated inventor. *Number of pages added* _____.
 - ☐ Signature for inventor who refuses to sign or cannot be reached by person authorized under 37 CFR 1.47. *Number of pages added* _____.
 - ☐ Added page for signature by one joint inventor on behalf of deceased inventor(s) where legal representative cannot be appointed in time. (37 CFR 1.47) *Number of pages added* _____.
 - ☐ Authorization of attorney(s) to accept and follow instructions from representative.
- ☒ This declaration ends with this page.

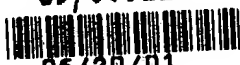
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20 June 2001 *mm*

Applicant(s) Keeth et al.
Title 256 MEG DYNAMIC RANDOM ACCESS
MEMORY
Pages of Spec. 232 No. of Claim 19
Sheets of Drawings 367
Declaration X Verified Stmt. --
Amt. of Check \$710
Atty's File No. DB000575-012
ELP/CFO/mk

*PTO/SB/05
*PTO/SB/17 x2
*Information Disclosure Statement (PTO/SB/08A, 1 pgs. and PTO/SB/08B, 2 pgs.)
*copies of cited references
*Preliminary Amendment including Deletion of Inventors
*Microfiche Appendix

jc474 U.S. PTO
09/885217

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EXHIBIT
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NUMBER: E183986290905
DATE OF DEPOSIT: June 20, 2001

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Michelle M. Kalafatis

PATENT
Attorney Docket No.: DB000575-012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Keeth, et al.)	Examiner:	Not yet assigned
Serial No.:	Not yet assigned)	Art Unit:	Not yet assigned
Filed:	20 June 2001)		
Entitled:	256 MEG DYNAMIC RANDOM ACCESS MEMORY			

PRELIMINARY AMENDMENT

Preliminary to the examination of the above-identified application filed herewith,
please amend that application as follows.

In the Specification

Page 1, line 2, after the title, insert -- This Application is a divisional application of
U. S. Application Serial No. 09/620,606 filed July 20, 2000, which is a divisional application
of U.S. Application Serial No. 08/916,692 filed August 22, 1997.--

Page 52, line 18, delete "nine microfiche having a total of fifty-two frames" and
substitute therefore --eleven microfiche having a total of sixty-six frames--.

Page 52, line 19, delete "33" and substitute therefore --44--.

A replacement page 52 is enclosed; a copy of page 52 marked to show the changes is
also enclosed.

In the claims

Please cancel claims 1-222, 238-246, and 251-465.



STATEMENT REQUESTING DELETION OF INVENTORS

The declaration that is being filed with the instant application is a copy of the declaration that was filed with U.S. Application Serial No. 08/916,692 filed August 22, 1997. As a result of the restriction requirement in U.S. Application Serial No. 08/916,692, the following inventors named in the grandparent application are not inventors of the invention claimed in the instant divisional application:

Raymond J. Beffa
Frank K. Ross
Larry D. Kinsman
Ronald L. Taylor
John S. Mullin

Please file the instant application in the names of the remaining inventors (Keeth, Bunker and Derner) in accordance with 37 CFR 1.63 (d).

CHANGE OF ADDRESS

Please note that the undersigned attorney's address has changed since the parent application was filed and that the undersigned attorney's address is correctly noted on form PTO/SB/05 filed herewith, and is correctly noted below.

It is respectfully requested that the instant application, covering claims 223-237 and 247-250, receive an early office action on the merits.

Respectfully submitted



Edward L. Pencoske
Reg. No. 29,688
Thorp Reed & Armstrong, LLP
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Pittsburgh, PA 15219-1425
(412) 394-7789

Attorneys for Applicants

Dated: 20 June 2001